Building permit to be granted by the Architect on Record in certain cases and his responsibility to file documents and deposit fees with the Municipality

272. Subject to the provisions of clauses (a) and (b) of sub-section (2), and clauses (a) and (b) of sub-section (3), of section 268, an Architect on Record shall grant a building permit in such cases, and in such manner, and shall be responsible for submitting such documents to, and depositing such fee with, the Municipality before granting the building permit as aforesaid, as may be prescribed:

Provided that the grant of any such building permit shall be subject to review by the Chief Municipal Officer and if, during such review, it appears to the Chief Municipal Officer that the building permit as aforesaid has been granted in contravention of any provision of this Act or the rules made thereunder, the Chief Municipal Officer may, after giving the Architect on Record an opportunity of being heard, revoke such building permit, and, thereupon, the provisions of section 278 shall apply.

Building permit to be granted by Chief Municipal Officer in all other cases of building activity.

273. Except as otherwise provided in section 271 and section 272, the Chief Municipal Officer shall grant a building permit in all other cases of building activity on such application, and in such manner, as may be prescribed.

Deemed refusal to grant building permit in case of failure of Chief Municipal Officer to dispose of application for building permit and right of applicant to appeal to State Government.

274. (1) If the Chief Municipal Officer fails to dispose of an application for a building permit under section 273 within twenty-one working days from the date of receipt of such application, the person who has the right and title over the plot or the lessee in respect of the plot may presume that his application has been rejected and may, upon such presumption, make, subject to the provisions of sub- section (3) of section 285, an appeal to the State Government.

(2) Upon receipt of such appeal, the State Government may call for a report from the Chief Municipal Officer and dispose of the appeal with such direction as it deems fit within a period of one month from the date of the appeal.

Automatic lapse of building permit on change of right and title of land or building or terms and conditions of lease of land or building or on person on record ceasing to function as such for whatever reasons, and grant of fresh building permit by new Architect on Record or by Chief Municipal Officer, as the case may be.

275. A building permit granted under section 272 or section 273 shall lapse automatically if -

(1) the right and title, or the lease, of-

(a) the land on which a building activity is proposed, or

(b) the building,

is changed, or

(2) the person on record ceases to function as such for whatever reasons, and, thereupon, a fresh building permit may be granted under section 272 or section 273, as the case may be.

Commencement and completion of building activities within specified time.

276. Any building activity shall commence within such period following the date of grant of a building permit, and shall be completed within such period, as may be determined by the Architect on Record or the Chief Municipal Officer, as the case may be:

Provided that where any building activity cannot be commenced, or completed within the period as aforesaid, the Chief Municipal Officer may, after holding such enquiry as he may deem necessary, and by an order, in writing, extend such period in either case, subject to such conditions as may be specified in the order.

Revocation of building permit for violation of provisions on building activity (after giving the person who has the right and title over the plot or the lessee in respect of the plot an opportunity of being heard), and grant of fresh building permit on compliance therewith.

277. (1) A building permit may, by an order, in writing, be revoked any time after giving the person who has the right and title over the plot or the lessee in respect of the plot an opportunity of being heard, if any provision of this chapter or the rules made thereunder governing the building activity is violated.

(2) A fresh building permit may be granted to the person who has the right and title over the plot or the lessee in respect of the plot on his complying with the provisions as aforesaid.

Stoppage of building activity on lapse or revocation of building permit.

278. Where a building permit has lapsed under section 275 or where a building permit has been revoked under section 277, no building activity shall be proceeded with any further.

Issue of building use permit by the Architect on Record and the Chief Municipal Officer on completion, or part completion, of building activity.

279. (1) A building use permit shall, on completion, or part completion, of the building activity, be obtained prior to occupancy, or use being made, of any building or part of a building except where no building permit is necessary for the building activity.

(2) A building use permit may be issued -

(a) by the Architect on Record where the building permit has been granted by him or his predecessor Architect on Record, and

(b) by the Chief Municipal Officer in other cases.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the Chief Municipal Officer may, on the completion of any building activity, inspect any building with a view to ensuring compliance with the building use permit issued under sub-section (2).

Revocation of building use permit.

280. (1) The Architect on Record or the Chief Municipal Officer, as the case may be, may revoke a building use permit issued under section 279 at any time after issuing a notice in such Form, and in such manner, as may be prescribed.

(2) A building use permit may be revoked for part of a building.

(3) On the revocation of a building use permit, no use shall be made of the building or the part of the building, as the case may be, for which the building use permit has been revoked.

(4) For the removal of doubt, it is hereby declared that the revocation of a building use permit shall mean that such building use permit is no longer valid and that the Chief Municipal Officer has withdrawn the permission granted to make use of the building or the part of the building, as the case may be.

Power to inspect building and land to ensure compliance of the provisions on building activities and building use.

281. (1) All buildings including lands on which they are situated shall be subject to inspection by the Chief Municipal Officer with a view to ensuring compliance with the provisions with respect to building activities and building use.

(2) Such inspection may be made by the Chief Municipal Officer at any time without giving any prior notice of his intention so to do.

(3) The person who has the right and title over the plot or the lessee in respect of the plot on which any building activity is being carried on or any person undertaking any building activity on any plot shall allow any officer or other employee of the Municipality, duly authorized by the Chief Municipal Officer in this behalf, to enter the plot and to inspect any building with a view to ensuring compliance with the provisions of this chapter on building activities and building use.

(4) For the purposes of sub-section (3), the officer or the other employee of the Municipality as aforesaid may-

(a) enter between sunrise and sunset any place of a building which is not used, or which he has reason to believe is not used, in accordance with the building use permit,

(b) make examination of the premises,

(c) require the production of any document relating to the land and the building,

(d) direct the occupier of such premises or any part of such premises that such premises or such part of such premises shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (b),

(e) take measurements and photographs and make such recordings as he may consider necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment, and

(f) exercise such other powers as may be prescribed.

Power to give order to vacate or to demolish building and to take other action in case of violation of provisions on building activities and building use, or in case of building posing danger to life and property.

282. If-

(a) there is any contravention of any provision of this chapter relating to building activities in respect of any building or use of any building, or

(b) any building poses a danger to life and property,

the Chief Municipal Officer may, by order, in writing, direct the person who has the right and title over the plot or the lessee in respect of the plot or the occupier of such building to vacate such building or to seal such building and to take such other action as the Chief Municipal Officer may deem fit.

Grant of variance, and constitution of Empowered Committee and manner of functioning thereof.

283. (1) For the purposes of this chapter, "to grant a variance" shall mean to grant permission to dispense with the provisions of any specific rules in this behalf.

(2) The power to grant a variance or to revoke a variance shall vest on an Empowered Committee to be constituted by the State Government.

(3) The Empowered Committee shall consist of the Chief Municipal Officer, who shall be the Chairman, and such other members, not exceeding seven, having such qualifications as may be prescribed, to be nominated by the State Government.

(4) The Empowered Committee shall function in such manner as may be prescribed.

Listing of heritage building etc., constitution of Heritage Conservation Committee, and manner of functioning thereof.

284. (1) A list of heritage buildings, heritage precincts and heritage natural features shall be prepared by the Chief Municipal Officer on the advice of the Heritage Conservation Committee. Such list shall be finalized only after invitation and consideration of objections and suggestions of the public.

Explanation. –(a) When a building or group of buildings or natural features is listed, it shall automatically mean (unless otherwise indicated) that the entire property including its entire compound or plot boundary along with all subsidiary structures and artifacts within the compound or the plot boundary. as the case may be, are part of the list.

(b) Such list may be a graded list.

(c) Such list may include buildings (including, but not limited to, building artifacts and structures), precincts (including, but not limited to, streets, areas of historic, aesthetic, architectural and cultural value), and natural features of environmental significance and scenic beauty (including, but not limited to, sacred groves, hills, hillocks, water bodies, and the areas adjoining the same, open areas, wooded areas, points, walks, rides, and bridle paths).

(2) The Heritage Conservation Committee shall be appointed by the State Government in the manner prescribed.

(3) The Heritage Conservation Committee shall -

(a) prepare a list of heritage buildings, heritage precincts, and heritage natural features for which building permits shall be granted on the advice of the said Committee,

(b) determine guidelines and conservation principles or maintenance requirements of heritage buildings, heritage precincts or heritage natural features,

(c) advise the Chief Municipal Officer whether, and on what conditions, the building permit may be granted for heritage buildings, heritage precincts or heritage natural features,

(d) advise the Chief Municipal Officer on incentives that may be offered for conservation of heritage buildings, heritage precincts or heritage natural features,

(e) advise the Chief Municipal Officer whether any building rules require relaxation, modification, or alteration for furthering conservation of heritage buildings, heritage precincts or heritage natural features,

(f) recommend to the Chief Municipal Officer guidelines to be adopted by private parties or public agencies sponsoring conservation programmes for heritage buildings, heritage precincts or heritage natural features,

(g) advise the Chief Municipal Officer on any other issues as may be required for conservation of heritage buildings, heritage precincts or heritage natural features, and

(h) appear before the State Government, either independently or through, or on behalf of, the Chief Municipal Officer in cases of appeals under this Act for heritage buildings, heritage precincts or heritage natural features.

(4) The manner of functioning of the Heritage Conservation Committee shall be such as may be determined by the State Government.

Appeal against certain orders or notices issued under the Act.

285. (1) -Any person, aggrieved by any of the following notices issued or orders made under this Act, may prefer an appeal against such notice or order, as the case may be, to the State Government, namely :-

(a) an order removing the name of a person on record from the books of the Municipality under section 269;

(b) an order suspending building activity under sub-section (2) of section 271;

(c) an order revoking a building permit under sub-section (1) of section 277;

(d) an order refusing to issue a building use permit under sub-section (2) of section 279;

(e) a notice of revocation of building use permit under sub- section (1) of section 280;

(f) an order directing to vacate a building or to seal a building under section 282.

(2) Any appeal under this section shall be filed within a period of thirty days from the date of the notice or, as the case may be, the date of the order appealed against: Provided that the State Government may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal within the said period.

(3) An appeal to the State Government shall be made in such Form, and shall be accompanied by such fees, as may be provided by rules, and shall, except in the case of an appeal under section 274, be accompanied by a copy of the order or the notice, as the case may be, appealed against.

Appeal against orders of State Government.

286. (1) An appeal shall lie to a court having jurisdiction against an order of the State Government made in an appeal under clause (a), or clause (b), of sub-section (1) of section 285, confirming, modifying, or annulling an order made, or notice issued, under this Act.

(2) The provisions of sub-section (2) of section 285 and the rules made thereunder shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under the said section.

(3) An order of an appeal under this section, and subject only to such order, an order of the State Government under section 285, and subject to such order of the State Government, an order or notice referred to in sub-section (1) of that section, shall be final.

Power of State Government to make rules.

287. (1) The State Government may, by notification in the *Official Gazette, make rules for carrying out the provisions of this chapter.*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:

(a) procedure during building activity;

(b) procedure for obtaining building use permit;
(c) procedure for obtaining variance;
(d) infrastructure in relation to building activity;
(e) environmental management;
(f) pollution control;
(g) structural safety;
(h) fire prevention and safety;
(i) maintenance and upgradation;
(j) any other matter which may be, or is required to be, provided by rules.

Chapter XXXIII

Municipal Licences

Premises not to be used for non-residential purpose without municipal licence.

288. (1) Except as hereinafter provided in this Act, no person shall use, or permit to be used, any premises for any of the non-residential purposes mentioned in the Schedule without or otherwise than in conformity with the terms of a licence granted by the Chief Municipal Officer so as not to contravene the provisions of sub- section (2) of this section:

Provided that no such licence shall be given in respect of any non-residential use of a premises, if such use is otherwise than in conformity with the provisions of this Act, or any other law for the time being in force, or the rules or the regulations or the orders made thereunder.

(2) In the case of a non-residential use of a premises for a purpose for which a licence or permission is required from the Government or any statutory body under any law for the time being in force, no licence under this section shall be given until the licence or the permission under the said law has been produced before the Chief Municipal Officer, and duly authenticated copies thereof have been submitted to him:

Provided that in the case where the production of a licence under this Act is a pre-condition for the grant of a licence under any other law for the time being in force, the Chief Municipal Officer may grant a provisional licence, which shall be authenticated to be final only upon the production of a licence or permission under the said law:

Provided further that such provisional licence shall have validity only for the purpose of fulfilling the preconditions of the grant of a licence under any other law as aforesaid.

(3) In specifying the terms of a licence granted under this section, the Chief Municipal Officer may require the licensee to take all or any of such measures as he may deem fit to guard against danger to life, health or property or for the abatement of nuisance of any kind.

(4) The Municipality shall, by regulations, determine the fees to be paid in respect of a licence granted under sub-section (1), and may specify different fees for different categories of non-residential uses in different areas within the municipal area: Provided that no such fees shall exceed rupees two thousand and five hundred in any case.

(5) The Municipality may, by regulations, determine -

(a) as to when the initial licence is to be taken out and the procedure of annual renewal thereof, and

(b) the matters connected with the display of licence, inspection of premises, power of inspectors, and such other matters as may be deemed necessary.

Registers to be maintained.

289. The Chief Municipal Officer shall maintain in such Form, and in such manner, as may be prescribed, two separate registers of which-

(a) one shall contain premiseswise information of non- residential uses, indicating the unique premises number, if any, assigned under this Act, and

(b) the other shall contain such information, on the basis of different non-residential user groups for factories, warehouses, medical institutions, educational institutions, and such other uses, as may be provided by regulations.

Municipal licence for private markets.

290. (1) The Chief Municipal Officer may,. with the prior approval of the Municipality, grant to any person a licence to establish or keep open a private market on payment of such fees as may be determined by the Municipality by regulations, and may specify such conditions consistent with this Act as he may deem fit.

(2) When the Chief Municipal Officer refuses to grant any licence, he shall record a brief statement of the reasons for such refusal.

(3) The Chief Municipal Officer may, with the prior approval of the Municipality and for reasons to be recorded in writing, by order, suspend a licence in respect of a private market for such period as he thinks fit or cancel such licence.

(4) A private market in respect of which the licence has been suspended or cancelled under sub-section (3) shall be closed with effect from such date as may be specified in the order of suspension or cancellation.

Municipal licence for sale of flesh, fish or poultry.

291. (1) No person shall, without or otherwise than in conformity with a licence from the Chief Municipal Officer, carry on the trade of a butcher, fish-monger, poulterer or importer of flesh, intended for human food, or use any place for the sale of flesh, fish or poultry, intended for human food:

Provided that no person shall sell, or expose for sale, any flesh obtained from an animal unless the skinned carcass of the animal is stamped in such manner as the Chief Municipal Officer may, by general order made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licensed slaughterhouse:

Provided further that no licence shall be required for any place used for sale, or storage for sale, of preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

(2) The Chief Municipal Officer may, by order, and subject to such conditions as to supervision and inspection as he may think fit to impose, grant a licence or may, by order and for reasons to be recorded in writing, refuse to grant a licence.

(3) The Municipality shall, by regulations, determine the procedure for the issue of a licence and renewal thereof.

(4) If any place is used for the sale of flesh, fish or poultry intended for human food in contravention of the provisions of this section, the Chief Municipal Officer may stop the use of such place in such manner as he may consider necessary.

Prohibition of unlicensed activities.

292. (1) Without or otherwise than in conformity with the terms of a licence granted by the Chief Municipal Officer in this behalf, no person shall, within the municipal area, use, or permit to be used, any land or building -

(a) for keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce, or

(b) as a market in respect of which a licence is required under this Act, or

(c) for carrying out work as an artisan, or

(d) for trade of a butcher, fish-monger, poulterer or importer of flesh intended for human food or for sale thereof.

(2) If any land or building, public or private, is used, or permitted to be used, in contravention of the provisions of sub-section (1), the Chief Municipal Officer may stop the use thereof by such means as he deems fit, and may confiscate any article in respect of which such use is being made, prepare an inventory thereof, and, in the case of perishable items, auction them without notice.

Power to stop use of premises used in contravention of licences.

293. (1) If the Chief Municipal Officer is of the opinion that any premises is being used for a non-residential purpose without a licence under this Act or otherwise than in conformity with the terms of a licence granted in respect thereof, he may stop the use of any such premises for any such purpose for a specified period by such means as he may consider necessary.

(2) If a person continues to use a premises in contravention of the provisions of sub-section (1), the Chief Municipal Officer may, notwithstanding any other action that may be taken against such person under this Act, levy on such person a continuing fine in accordance with the provisions of section 377.

Power to seize food or drug etc.

294. (1) The Chief Municipal Officer, or any officer or other employee of the Municipality authorized by him in this behalf, may, at any time by day or night, without notice, inspect and examine any food or drug or any utensil or vessel used for preparing, manufacturing or storing such food or drug.

(2) If, upon such inspection or examination, any such food or drug is, in the opinion of the Chief Municipal Officer or the officer or other employee authorized by him in this behalf, unwholesome or unfit for human consumption, or is not what it is represented to be, or if any such utensil or vessel is of such kind, or in such state, as to render any food or drug prepared, manufactured, or stored therein, unwholesome or unfit for human consumption, he may seize, seal or carry away such food or drug or utensil or vessel

(3) If any food or drug seized under sub-section (2) is, in the opinion of the Chief Municipal Officer, unfit for human consumption, he shall cause such food or drug to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption, and the expenses thereof shall be paid by the person in whose possession such food or drug was at the time of its seizure.

Chapter XXXIV

Vital Statistics

Appointment of Chief Registrar, Registrar, etc. of births and deaths.

295. (1) The State Government may, by notification under sub-section (1) of section 4 of the Registration of Births and Deaths Act, 1969, appoint such officer of that Government as that Government may think fit to be the Chief Registrar of births and deaths for the State of Sikkim (hereinafter referred to in this chapter as the Chief Registrar of births and deaths).

18 of 1969.

(2) The State Government may, for each municipal area, appoint a Registrar of births and deaths occurring in that municipal area:

Provided that in respect of the area within the jurisdiction of the Gangtok Municipal Corporation, the State Government may appoint the Health Officer of the said Municipal Corporation to be the Registrar of births and deaths occurring in that area:

Provided further that if the State Government considers any municipal area to be large, that Government may appoint for that municipal area a Sub-Registrar of births and deaths for the purpose of discharging under the superintendence of, and direction by, the Chief Registrar of births and deaths such of the functions of the Chief Registrar of births and deaths as the Chief Registrar of births and deaths may, from time to time, authorize him to discharge.

Duties of Registrars of births and deaths.

296. (1) Each Registrar of births and deaths shall keep himself informed of every birth or death occurring within the area of his jurisdiction and shall ascertain such particulars in respect of every birth or death as may be prescribed in this behalf.

(2) The Registrar's Manual on Registration of Births and Deaths shall be supplied to each Registrar of births and deaths by the Chief Registrar of births and deaths.

Register books to be maintained.

297. (1) The particulars regarding births and deaths shall be entered in such registers as shall be supplied by the office of the Chief Registrar of births and deaths on cash payment, and such registers shall be maintained by the Registrar of births and deaths for a municipal area.

(2) The forms of the register to be maintained under sub-section (1) shall be such as may be prescribed under sub-section (2) of section 16 of the Registration of Births and Deaths Act, 1969.

18 of 1969.

(3) On an application from a person interested, the Registrar of births and deaths of the concerned municipal area shall issue an extract from any entry in the register of births and deaths on payment of such fee as may be prescribed under clause (i) of sub-section (2) of section 30 of the Registration of Births and Deaths Act, 1969.

Registration of births and deaths.

298. Subject to the provisions of the Registration of Births and Deaths Act, 1969, the Registrar of births and deaths of a municipal area shall cause registration of births and deaths taking place within that municipal area.

Registration of name of child or of alteration of name.

299. (1) Subject to the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, when the birth of any child has been registered and the name, if any, by which it was registered, is altered or, if it was registered without a name, when a name is given to it, the parent or the guardian of such child or other person proposing such name to be altered or given may,

within such period as may be prescribed by rules made under the said Act, deliver to the Registrar of the area in which the birth was registered, such certificate as hereinafter provided, and the Registrar, upon the receipt of the certificate, shall, without any erasure of the original entry, forthwith enter in the register the name mentioned in the certificate as having been given to the child, shall initial and date such entry

(2) The certificate shall be in such Form as may be provided by rules made under the Registration of Births and Deaths Act, 1969.
18 of 1969.

Correction of errors, or cancellation of entries, in registers of births or deaths.

300. The correction of errors, or cancellation of entries, in the registers of births and deaths shall be made in accordance with the provisions of the Registration of Births and Deaths Act, 1969.

Information of births.

301. Subject to the provisions of the Registration of Births and Deaths Act, 1969, and the rules made thereunder, it shall be the duty of the father or the mother of every child born in the municipal area and, in default of the father or the mother, any relation of the child living in the same premises and, in default of such relation, the person having charge of the child, or any *Auganwadi* worker or the *Panchayat* or any informant, to give to the best of his or her knowledge or belief, to the Registrar of births and deaths of the municipal area concerned within twenty-one days from the date of birth of the child information containing such particulars as may be prescribed under the said Act or the rules made thereunder:

Provided that -

(a) in the case of an illegitimate child, no person shall, as father of such child, be required to give infonnation under this Act concerning the birth of such child, and the Registrar shall not enter in the register the name of any person as father of such child, except at the joint request of the mother and the person acknowledging himself to be the father of such child, and such person shall, in such case, sign the register together with the mother,

(b) a person required to give infonnation only in default of some other person shall not be bound to give such infonnation if he believed, and had reasonable grounds for believing, that such infonnation had been given, and

(c) in the case of any institutional birth, that is to say, when a child is born in a hospital or nursing home or maternity home, the officer-in-charge of such hospital or nursing home or maternity home, as the case may be, shall report such birth to the concerned Registrar of births and deaths within twenty-one days from the date of birth of the child.

Information respecting finding of newborn child.

302. In the matter of sending any information in respect of a newborn child which is found exposed, the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, shall apply.
18 of 1969.

Information regarding deaths.

303. In the matter of sending any information in respect of any death, the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, shall apply.

Medical practitioner to certify cause of death.

304. In the matter of any certification by a medical practitioner stating the cause of death, the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, shall apply.

Duties of police in regard to unclaimed corpses.

305. It shall be the duty of the police to convey every unclaimed corpse to a registered burial or burning ground or other place for disposal of the dead or to a duly appointed mortuary and, thereafter, to inform the Registrar within whose jurisdiction such corpse was found.

Sextons etc., not to bury etc. corpse.

306. A sexton or a keeper of a registered burial or burning ground or other place for disposal of the dead, whether situated in municipal area or not, shall not bury, bum or otherwise dispose of, or allow to be buried, burnt or otherwise disposed of, any corpse unless such corpse is accompanied by a certificate in such Form as may be prescribed, and signed by a Registrar appointed under section 295 or by a registered medical practitioner or any other medical practitioner authorized by the Government in this behalf.

Chapter XXXV

Disaster Management

Management of natural or technological disasters.

307. (1) As far as possible, the Municipality shall, in collaboration with the concerned authorities of the Central Government or the State Government, including the meteorological office, have prepared environmental base maps and impact area diagrams and shall collect other relevant data and shall take necessary steps for erecting installations and other accessories required to mitigate the effects of natural or technological disasters.

(2) The Municipality shall organize emergency operations and promote public awareness in relation to disaster management.

(3) The Municipality shall take adequate measures to implement the regulations, if any, made by the planning and urban development authorities to mitigate earthquake hazards in high seismic zones and to promote citizen awareness in this regard.

PART VIII

POWERS, PROCEDURES, OFFENCES AND PENAL TIES

Chapter XXXVI

Procedure

A. Licences and Permissions

Signature, conditions, duration, suspension, revocation, etc., of licences and permissions.

308. (1) Whenever it is provided in this Act or the rules or the regulations made thereunder that a licence or a permission, in writing, may be granted for any purpose, such licence or permission shall be signed by the Chief Municipal Officer or by any other officer empowered to grant such licence or permission under this Act or the rules or the regulations made thereunder and shall specify the following particulars in addition to any other particulars required to be specified under any other provision of this Act or the rules or the regulations made thereunder ;-

(a) the date of the grant of licence or permission,

(b) the purpose and the period, if any, for which it is granted,

(c) restrictions or conditions, if any, subject to which it is granted,

(d) the name and address of the person to whom it is granted, and

(e) the fee, if any, paid for the licence or the permission.

(2) Except. as otherwise provided in this Act or the rules or the regulations made thereunder, for every such licence or permission, a fee may be charged at such rate as may, from time to time, be fixed by the Municipality, and such fee shall be payable by the person to whom the licence or the permission is granted.

(3) Save as otherwise provided in this Act or the rules or the regulations made thereunder, any licence or permission granted under this Act or the rules or the regulations made thereunder may, at any time, be suspended or revoked by the Chief Municipal Officer or the officer by whom it was granted, if he is satisfied that it has been secured by the grantee through misrepresentation or fraud, or if any of the restrictions or conditions of licence or permission has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provisions of this Act or the rules or the regulations made thereunder relating to any matter for which the licence or the permission, as the case may be, was granted:

Provided that -

(a) before making any order of suspension or revocation, an opportunity shall be given to the grantee of the licence or the permission to show cause why it should not be suspended or revoked; and

(b) every such order shall contain a brief statement of the reasons for the suspension or the revocation, of the licence or the permission, as the case may be.

(4) When any such licence or permission is suspended or revoked, or when the period for which such licence or permission was granted has expired, the grantee shall, for the purposes of this Act and the rules and the regulations made thereunder, be deemed to be without a licence or permission, as the case may be, until such time as the order suspending or revoking the licence or the permission, as the case may be, is rescinded or until the licence or the permission, as the case may be, is renewed.

(5) Every grantee of any licence or permission granted under this Act shall, at all reasonable times while such licence or permission, as the case may be, remains in force, if so required by the Chief Municipal Officer or the other officer by whom it was granted, produce such licence or permission, as the case may be.

B. Entry and Inspection

Power of entry.

309. The Chief Municipal Officer or any other officer or employee of the Municipality authorized by the Chief Municipal Officer in this behalf, or empowered by or under any provision of this Act, may enter into or upon any land or building with or without assistants or workmen, for the purpose of -

(a) ascertaining whether in connection with the land or the building there is or has been any contravention of the provisions of this Act or the rules or the regulations made thereunder, or

(b) ascertaining whether or not circumstances exist which render it necessary for the Chief Municipal Officer or any other officer or employee of the Municipality authorized by him in this behalf, or empowered by or under any provision of this Act, to take any action or execute any work under this Act or the rules or the regulations made thereunder, or

(c) taking any action or executing any work authorized or required by or under this Act or the rules or the regulations made thereunder, or

(d) making such inquiry, inspection, examination, measurement, valuation or survey as may be authorized or required by or under this Act or as may be necessary for the proper administration of this Act, or

(e) generally ensuring efficient discharge of the functions by any of the municipal authorities under this Act or the rules or the regulations made thereunder

Power to enter land or adjoining land in relation to any work.

310. (1) The Chief Municipal Officer or any person authorized by him in this behalf, or empowered by or under this Act, may enter upon any land within fifty metres of any work authorized by or under this Act with or without assistants or workmen, for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purpose connected with the execution thereof.

(2) Every person so authorized shall, before entering upon any such land, state the purpose thereof, and shall, if so required by the owner or the occupier thereof, fence off so much of the land as may be required for such purpose.

(3) Every person as aforesaid shall, in exercising any power conferred by this section, do as little damage as may be necessary, and compensation shall be payable by the Municipality in accordance with the rules or the regulations made under this Act in this behalf to the owner or the occupier of such land or to both for any such damage, whether permanent or temporary.

Breaking into building.

311. (1) It shall be lawful for the Chief Municipal Officer or any person authorized by him in this behalf, or empowered by or under this Act, to make any entry into any place and to open or cause to be opened any door, gate or other barrier, -

(a) if he considers the opening thereof necessary for the purpose of such entry, and

(b) if the owner or the occupier is absent or, being present, refuses to open such door, gate or other barrier.

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier, the Chief Municipal Officer or the person authorized or empowered in this behalf shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situate, to witness the entry or the opening and may issue an order, in writing, to them or any of them so to do.

(3) A report shall be made to the Executive Authority, as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

Time of making entry.

312. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no entry authorized under this Act shall be made except between the hours of sunrise and sunset:

Provided that if the Chief Municipal Officer is satisfied that the erection of any building or the execution of any work has been commenced or is

being carried on in contravention of the provisions of this Act in any premises between the period of sunset and sunrise, he may, if he considers it necessary so to do, enter such premises during such period accompanied by a police officer to make an inspection thereof and take such action as may be necessary under this Act.

Consent ordinarily to be obtained.

313. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no land or building shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving such occupier or owner, as the case may be, not less than twenty four hours' notice, in writing, of the intention to make such entry :

Provided that no such notice shall be necessary if the Municipality considers, for reasons to be recorded in writing, that there is immediate urgency for such entry and the service of a notice, in writing, may defeat its purpose.

Regard to be had to social or religious usages.

314. When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

Prohibition of obstruction or molestation in execution of work.

315. No person shall obstruct or molest any person authorized or empowered by or under this Act, or with whom the Municipality or any of the municipal authorities referred to in section 20 has lawfully contracted, in the execution of his duty or anything which he is authorized or empowered or required to do by virtue, or in consequence, of any of the provisions of this Act or the rules or the regulations made thereunder, or in fulfillment of his contract, as the case may be.

C. Public Notices and Advertisements

Public notices how to be made known.

316. Every public notice given under this Act or the rules or the regulations made thereunder shall be in writing under the signature of the Chief Municipal Officer or any other officer of the Municipality authorized by him in this behalf, and shall be widely made known in the locality to be affected thereby by affixing copies thereof in conspicuous public places within such locality or by publishing the same by advertisement in local newspapers or by such other means as the Chief Municipal Officer may think fit.

Newspapers in which advertisements or notices to be published

317. Whenever it is provided by or under this Act or the rules or the regulations made thereunder that notice shall be given by advertisement in local newspapers or a notification or information shall be published in local newspapers, such notice, notification or information shall be inserted in at least two newspapers of which at least one shall be in the regional language.

D. Evidence

Proof of consent etc. of Municipality, Chief Councillor, Chief Municipal Officer, etc.

318. Whenever under this Act or the rules or the regulations made thereunder the doing of, or the omission to do, anything or the validity of anything done depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of-

(a) the Municipality, or

(b) the Executive Authority, or

(c) the Chief Councillor, or

(d) the Chief Municipal Officer or any other officer of the Municipality,

as the case may be, a document, in writing, signed, -

(i) in the cases referred to in clause (a) and clause (b), by the Municipal Secretary where there is a Municipal Secretary, or where there is no Municipal Secretary, by the Chief Municipal Officer, and

(ii) in the cases referred to in clause (c) and clause (d), by the Chief Municipal Officer, Purporting to conveyor set forth such approval, sanction, consent, concurrence. declaration, opinion, or satisfaction, as the case may be, shall be sufficient evidence thereof.

E. Notices etc.

Notices etc. to fix reasonable time.

319. Where any notice, bill, order, or requisition, issued or made under this Act or the rules or the regulations made thereunder, requires anything to be done, for the doing of which no time is fixed in this Act or the rules or the regulations made thereunder, such notice, bill, order or requisition shall specify a reasonable time for doing the same.

Signature on notices etc. may be stamped.

320. (1) Every licence, permission, in writing, notice, bill, summons or other document, which is required by this Act or the rules or the regulations made thereunder to bear the signature of the Chief Municipal Officer or any other officer of the Municipality, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chief Municipal Officer or such other officer, as the case may be, and stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund under section 47.

Notices etc. by whom to be served or issued.

321. Every notice, bill, summons, or other document, required by this Act or the rules or the regulations made thereunder to be served upon, or issued to, any person, shall be served or issued by an officer or other employee of the Municipality or by any person authorized by the Chief Municipal Officer in that behalf.

Service of notices etc. 322. (1) Every notice, bill, summons, order, requisition or other document required or authorized by this Act or the rules or the regulations made thereunder to be served or issued by or on behalf of the Municipality or by any of the municipal authorities referred to in section 20, or by any officer or other employee of the Municipality, shall, save as otherwise provided in this Act or the rules or the regulations made thereunder, be deemed to be duly served -

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either-

(i) sent by registered post, or

(ii) delivered at the registered office or at the principal office or place of business of the company, or

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either -

(i) sent by registered post, or

(ii) delivered at the said place of business, or

(c) where the person to be served is a public body or a Municipality, or a society or other body, if the document is addressed to the secretary, treasurer or other officer of such public body, Municipality, society, or other body at its principal office, and is either, -

(i) sent by registered post, or

(ii) delivered at that office, and

(d) in any other case, if the document is addressed to the person to be served, and

(i) is sent by registered post, or

(ii) is given or tendered to him, or

(iii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the municipal area, or is given or tendered to some adult member of his family, or is affixed on some conspicuous part of the land or building, if any, to which it relates.

(2) Any document, which is required or authorized to be served on the owner or the occupier of any land or building, may be addressed to "the owner" or "the occupier", as the case may be, of such land or building (naming such land or building) without further name or description, and shall be deemed to be duly served, -

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1), or

(b) if the document or a copy thereof so addressed, is delivered to some person on the land or the building or, where there is no such person to whom it can be delivered, is affixed to some conspicuous part of such land or building.

(3) Where a document is served on a partnership under this section, the document shall be deemed to be duly served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises, the Chief Municipal Officer may, by a notice, in writing, require the occupier of such premises to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in section 320 or section 321 or in this section shall apply to any summons issued under this Act by any court.

Explanation. -For the purposes of this section, a servant shall not be deemed to be a member of the family.

F. Enforcement of Orders to Execute Works etc.

Time for complying with requisition or order, and power of Chief Municipal Officer to enforce requisition or order on default.

323. (1) When, under this Act or the rules or the regulations made thereunder, any requisition or order is made by a notice, in writing, issued to any person or persons by any municipal authority or any officer of the Municipality, such authority or officer shall specify in such notice such period as such authority or officer may consider reasonable within which -

(a) such requisition or order shall be complied with, and

(b) any objection thereto, in writing, shall be received by such authority or officer.

(2) If any such requisition or order or any portion thereof is not complied with within the period specified in the notice under sub-section (1), the Chief Municipal Officer may, subject to the

provisions of section 324 and such regulations as may be made by the Municipality in this behalf, take such measures, or cause such measures to be taken, as may, in his opinion, be necessary for causing due compliance with such requisition or order, and, except where otherwise expressly provided in this Act or the rules or the regulations made thereunder, the expenses, if any, incurred by such authority or officer in causing such compliance shall be paid by the person or persons to whom such notice is issued.

(3) The Chief Municipal Officer may take any scheme, execute any work, or cause anything to be done under this section, notwithstanding any prosecution or punishment or liability to punishment of any person under this Act or the rules or the regulations made thereunder for his failure to comply with such requisition or order.

Submission of objections to comply with notice.

324. (1) Any person who has been served with a notice under sub-section (1) of section 323 may, within such period as is specified in such notice, deliver to the municipal authority or the officer or the Municipality, as the case may be, any objection, *in writing,* setting forth the objections which he may desire to state for withdrawal or modification of such notice.

(2) Every such objection shall be placed before the Chief Municipal Officer for determination and, pending such determination, compliance with any requisition or order in accordance with such notice shall be stayed.

(3) The Chief Municipal Officer or, if he so directs, any other officer of the Municipality of such rank as may be specified by him, other than an officer who has issued such notice, *shall,* after hearing the person concerned or his agent duly authorized by him, in writing, in this behalf and after considering the circumstances of the case, make such order, either confirming or modifying or cancelling the notice, as he thinks fit.

(4) (a) Where the Chief Municipal Officer or any other officer of the Municipality referred to in sub-section (3) makes an order under that sub-section, either confirming or modifying the notice, he may, if he thinks fit, -

(i) direct that a portion of the expenses, if any, to be incurred in complying with the notice as confirmed or modified shall be borne by the Municipality, and

(ii) fix a time within which the notice so confirmed shall be complied with.

(b) If the notice as confirmed or modified is not complied with by such person within the time fixed under sub-clause (ii) of clause (a),

the Chief Municipal Officer shall take such measures, or cause such work to be executed, or such thing to be done, as may, in his opinion, be necessary for causing due compliance with such notice, and the expenses, if any, incurred by the Chief Municipal Officer in this behalf shall be payable to the Chief Municipal Officer on demand and, if not paid within ten days of such demand, shall be recoverable as an arrear of tax under this Act.

G. Recovery of Expenses

Power of Municipality to enter into agreement for payment of expenses in installments.

325. (1) When, under this Act or the rules or the regulations made thereunder, the expenses of any measure taken or work executed or thing done by or under the order of any municipal authority or any officer of the Municipality or any Magistrate are payable by any person, the Chief Municipal Officer may, if he thinks fit and with the approval of the Executive Authority, notwithstanding anything to the contrary contained in this Act or the rules or the regulations made thereunder, enter into an agreement with such person for payment of such expenses in such instalments, and at such intervals, as will secure the recovery of the whole amount due with interest thereon at such rate of interest as may be determined by the State Government from time to time within such period, not exceeding six years, as the Municipality' may determine.

(2) Every such agreement shall provide for adequate security against the whole amount due from such person.

Power of Municipality to declare certain expenses to be improvement expenses.

326. (1) If any expenses are to be recovered or are incurred on account of any work mentioned -

(a) in section 193 and section 195, or

(b) in the rules or the regulations made under this Act,

the Municipality may, if it thinks fit, declare such expenses to be improvement expenses.

(2) A register shall be maintained by the Chief Municipal Officer showing all expenses declared to be improvement expenses under this section, and such register shall be open to inspection by any person upon payment of such fee as may, from time to time, be determined by the Executive Authority.

Improvement expenses, how recoverable and by whom payable.

327. (1) Any improvement expenses under section 326 shall be a charge on the premises in respect of which, or for the benefit of which, such expenses are incurred, and shall be recoverable in such installments, and at such intervals, as may be sufficient to discharge such expenses with interest thereon at such reasonable rate as may be determined by the Municipality from time to time, and within such period, not exceeding thirty years, as the Municipality may in each case determine.

H. Payment of Compensation

General power of Municipality to pay compensation

332. In any case not otherwise expressly provided for in this Act or the rules or the regulations made thereunder, the Chief Municipal Officer may, with the prior approval of the Executive Authority, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or the rules or the regulations made thereunder on the Chief Municipal Officer or on any other officer or other employee of the Municipality.

Compensation to be paid for damage to property of Municipality.

333. (1) Any person who has been convicted of any offence under this Act or the rules or the regulations made thereunder shall, without prejudice to any punishment to which he may be subject, be liable to pay such compensation for any damage to any property of the Municipality resulting from such offence as the appropriate municipal authority may consider reasonable.

(2) In the case of any dispute regarding the amount of compensation under sub-section (1), such amount shall, on an application, in writing, made by such person to the Magistrate who convicts such person of such offence, be determined by such Magistrate, and, if the amount of compensation so determined is not paid by such person, such amount shall be recovered under a warrant from such Magistrate as if it were a fine imposed by him on the person liable thereto.

I. Recovery of Expenses or Compensation in Case of Disputes

Reference by Municipality to Civil Court in certain cases of recovery of expenses.

334. (1) If, in respect of any expenses referred to in section 325, any dispute arises, the Chief Municipal Officer shall refer such dispute to the Civil Court having jurisdiction for determination.

(2) Upon such reference, the Chief Municipal Officer shall defer further proceedings for the recovery of such expenses and shall recover only such amount, if any, as may be determined by the Civil Court having jurisdiction.

Application to Civil Court in certain cases of payment of expenses or compensation.

335. Save as otherwise provided in this Act or the rules or the regulations made thereunder or in any other law for the time being in force, in the case of any dispute in respect of any expenses or any compensation payable to any person by any municipal authority or any officer or other employee of the Municipality or any other person under this Act or the rules or the regulations made thereunder, the amount of such expenses or such compensation shall be determined by the Civil Court having jurisdiction at any time within one year from the date of such expenses or such compensation first becoming due.

Recovery of expenses or compensation determined under section 335.

336. If the amount of any expenses or compensation determined under section 3,35 is not paid on demand, such amount shall be recoverable as if the same were due under a decree of the Civil Court having jurisdiction or in the manner provided in chapter XVIII.

Recovery of expenses or compensation by suit in court.

337. Notwithstanding anything contained in section 336, any expenses or compensation determined under section 335 may be recovered by a suit brought in a court of competent jurisdiction.

J. Recovery of Certain Dues

Recovery of certain dues of Municipality.

338. Save as otherwise provided in this Act or the rules or the regulations made thereunder, any sum due to the Municipality on account of any charge, cost, expense, fee, rate or rent or on any other account under this Act or the rules or the regulations made thereunder shall be recoverable from the person from whom such sum is due as if it were property tax.

K. Obstruction of Owner by Occupier

Application to Civil Court by owner when occupier prevents from complying with Act etc

339. (1) Any owner of any land or building may, if he is prevented by the occupier thereof from complying with any provision of this Act or the rules or the regulations made thereunder or any requirement under any such provision in respect of such land or building, apply to the Civil Court having jurisdiction within the time fixed for compliance with such provision or requirement, and, thereupon, such owner shall not be liable for his failure to comply with such provision or requirement within the time fixed for such compliance.

(2) On receipt of any application under sub-section (1), the Civil Court may make an order, in writing, requiring the occupier of the land or the building, as the case may be, to afford all reasonable facilities to the owner for complying with the provision or the requirement as aforesaid, and may also, if it thinks fit, direct that the costs of such application and order shall be paid by the occupier.

(3) The occupier shall, within eight days from the date of any order under sub-section (2), afford all reasonable facilities to the owner in compliance with such order. In the event of any continued refusal by the occupier to do so, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise have incurred by reason of his failure to comply with the provision or the requirement as aforesaid.

L. Proceedings before the Civil Court

Procedure in Civil Court.

340. (1) Whenever under this Act any application, appeal or reference is made to a Civil Court having jurisdiction, such Civil Court may, for the purpose of any inquiry or proceeding in connection with such application, appeal or reference, summon and enforce the attendance of witnesses and compel them to give evidence or compel the production of documents by the same means, and, as

far as possible, in the same manner, as are provided in the Code of Civil Procedure, 1908, and, in all matters relating to any such enquiry or proceedings, the Court shall be guided generally by the provisions of the Code of Civil Procedure, 1908, so far as such provisions are applicable to such inquiry or proceeding.

5 of 1908.

(2) If, in any such inquiry or proceeding, any person summoned to appear before the Court fails to do so, the Court may proceed with such inquiry or proceeding in his absence.

(3) The cost of every such inquiry or proceeding shall be payable by such person or persons, and in such proportion or proportions, as the Court may direct, and, the amount of such cost shall be recoverable as if the same were due under a decree of the Court.

Fees in proceeding before, Civil Court.

341. (1) The Municipality may specify a fee -

(a) for making under this Act any application, appeal or reference to a Civil Court having jurisdiction, or

(b) for issue of any summons or other process in any inquiry or proceeding in connection with such application, appeal or reference:

Provided that the fee, if any, under clause (a) shall not, in the case where the value of any claim is capable of being estimated in money, exceed the fee leviable in a similar case under the Code of Civil Procedure, 1908.

5 of 1908.

(2) No application, appeal, or reference under this Act shall be received by a Civil Court having jurisdiction until the fee, if any, under clause (a) of sub-section (1) has been paid:

Provided that the Civil Court may, in any case in which it thinks fit so to do, -

(i) receive such application, appeal or reference, or

(ii) issue summons or other process,

without payment of such fee.

Repayment of half of fees on settlement before hearing.

342. Whenever under this Act any application, appeal or reference to a Civil Court having jurisdiction is settled by agreement between the parties concerned before hearing of such application, appeal or reference, half the amount of any fee paid by any of such parties under sub-section (2) of section 341 shall be repaid by the Civil Court to such party.

M. Municipal Courts and Proceeding before Municipal Courts

Creation of Municipal Courts for trial of offences under the Act.

343. (1) The State Government shall, with the concurrence of the High Court of Sikkim, designate a Court of Civil Judge-cum-Judicial Magistrate as the Municipal Court at such place or places as the State Government may deem necessary to deal with the cases, and the trial of offences, under - (a) this Act, and (b) the rules and the regulations made thereunder, and may prescribe the time within which, and the place or the places at which, such Municipal Court shall sit for such trial of offences.

(2) Every such Municipal Court shall exercise all other powers, and discharge all other functions as provided in this Act.

(3) Each such Municipal Court shall have jurisdiction over such municipal area or areas as may be specified by the State Government with the concurrence of the High Court of the State, by notification.

(4) The procedure in every such Municipal Court shall, except where otherwise specifically provided in this Act, be in accordance with the provisions of the Code of Criminal Procedure, 1973, and such other law, if any, as may be applicable.

2 of 1974.

Certain offences to be cognizable.

344. The offences mentioned in section 271, section 278, section 280, section 282, section 315, and section 378 shall be cognizable within the meaning of the Code of Criminal Procedure, 1973.

Power of Municipal Court to hear cases in absence of accused summoned to appear.

345. If, in any case, any person, who is summoned to appear before a Municipal Court to answer any charge of an offence under this Act or the rules or the regulations made thereunder, fails to appear on the date and at the time and the place mentioned in the summons issued in this behalf or on any subsequent date to which the hearing of such case is adjourned, the Municipal Court may, if-

(a) service of the summons is, to his satisfaction, proved to have been effected, and

(b) no sufficient cause is shown for non-appearance of such person,

hear and determine such case in the absence of such person.

Limitation of time for prosecution.

346. No person shall be liable to any punishment for an offence under this Act or the rules or the regulations made thereunder unless a complaint of such offence is made before a Judicial Magistrate designated by the High Court in consultation with the State Government within six months from the date immediately after -

(a) the date of commission of such offence, or

(b) the date on which the commission or the continuance of such offence is first brought to the notice of the Municipality or the Chief Municipal Officer.

Complaint regarding nuisance and removal thereof.

347. (1) The Chief Municipal Officer or any other officer of the Municipality authorized by him in this behalf, in writing, or any person who resides or owns property in the municipal area, may complain of the existence of any nuisance to a Municipal Court.

(2) Upon receipt of any such complaint, the Municipal Court, after making such inquiry as he considers necessary, may, if he thinks fit, by an order, in writing, -

(a) direct the person responsible for such nuisance or the owner of the land or the building on which such nuisance exists to take, within such period as may be specified in the order, such measures for abating, preventing, removing, or remedying such nuisance as may appear to the Municipal Court to be practicable and reasonable, and may direct the Chief Municipal Officer to enforce any of the provisions of this Act or the rules or the regulations made thereunder for prevention of such nuisance, and

(b) further direct the person held responsible for the nuisance to pay to the complainant such reasonable cost of the complaint (including compensation for loss of time in prosecuting such complaint) as the Municipal Court may determine:

Provided that where, in the opinion of the Municipal Court, immediate action to prevent the nuisance is necessary, he may dispense with the inquiry as aforesaid and may make forthwith such order as he considers necessary.

(3) If any person responsible for any nuisance or any owner of any land or building on which any nuisance exists fails to comply with any order under sub-section (2) within the period specified in the order, the Chief Municipal Officer may, on the expiry of such period, proceed to take necessary action in accordance with the order, or may take such other measures to abate, prevent, remove, or remedy the nuisance as he may consider necessary, and the cost of any such action shall be recovered from such person or such owner, as the case may be.

Power of Municipal Court to direct payment of fine and demolition of unlawful works.

348. (1) If, under any provision of this Act or the rules or the regulations made thereunder, any person is, in respect of any unlawful work, liable -

(a) to pay any fine, and also

(b) to demolish such work,

the Municipal Court having jurisdiction may, in his discretion, direct such person to pay the fine and also to demolish the work.

(2) All sums realized on account of fine under this section shall be credited to the Municipal Fund.

N. Legal Proceedings

Power to institute etc. legal proceeding and to obtain legal advice.

349. The Chief Municipal Officer may, subject to such directions as the Municipality may give from time to time, -

(a) take, or withdraw from, proceeding against any person who is charged with -

(i) any offence under this Act or any rules or regulations made thereunder, or

(ii) any offence which affects, or is likely to affect, any property or interest of the Municipality or the due administration of this Act, or

(iii) committing any nuisance whatsoever, or

(b) contest or compromise any appeal against assessment of any tax or rate, or

(c) take, or withdraw from, or compromise, any proceeding under this Act for the recovery of expenses or compensation claimed to be due to the Municipality, or

(d) withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person, or

(e) defend any suit or other legal proceeding brought against the Municipality or against any municipal authority or any officer or other employee of the Municipality in respect of anything done or omitted to be done by the Municipality or such municipal authority or officer or other employee under this Act or the rules or the regulations made thereunder in the official capacity, or

(f) compromise, with the approval of the Executive Authority or, where there is no Executive Authority, with the approval of the Municipality, any claim, suit or other legal proceeding brought against the Municipality or any municipal authority or any officer or other employee of the Municipality in respect of anything done or omitted to be done under any of the foregoing clauses of this section, or

(g) withdraw from, or compromise, any claim against any person in respect of a penalty payable under any contract entered into with such person by the Chief Municipal Officer on behalf of the Municipality, or

(h) institute or prosecute any suit or other legal proceeding or, with the approval of the Executive Authority, or where there is no Executive Authority, with the approval of the Municipality, withdraw from, or compromise, any suit or claim, other than a claim referred to in

clause (d), instituted or made, as the case may be, in the name of the Municipality or the Chief Municipal Officer, or

(i) obtain, for any of the purposes mentioned in the foregoing provisions of this section or for securing lawful exercise or discharge of any power or duty vesting in, or imposed upon, any municipal authority or any officer or other employee of the Municipality under this Act, such legal advice and assistance as he may, from time to time, consider necessary or expedient, or as he may be required by the Municipality or the Executive Authority, to obtain.

Notice, limitation, and tender of amends in suits against Municipality etc.

350. (1) No suit shall be instituted in any court having jurisdiction against any municipal authority or any officer or other employee of the Municipality or any person acting under the direction of any municipal authority or any officer or other employee of the Municipality in respect of anything done, or purported to be done, under this Act or the rules or the regulations made thereunder, until the expiration of one month next after a notice, in writing, has been delivered or left at the office of such authority or at the office or the residence of such officer or other employee or person, stating -

(a) the cause of action,

(b) the name and residence of the intending plaintiff, and

(c) the relief which such plaintiff claims.

(2) Every such suit shall be commenced within four months next after accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required under sub-section (1).

(3) If the municipal authority, at the office of which, or the officer or the other employee of the Municipality or the person acting under the direction of any municipal authority or any officer or other employee of the Municipality, at the office or the residence of whom, a notice has been delivered or left under sub-section (1), satisfies the court having jurisdiction that the relief claimed was tendered to the plaintiff before the institution of the suit, the suit shall be dismissed.

(4) Nothing in the foregoing provisions of this section shall apply to any suit instituted under section 38 of the Specific Relief Act, 1963. 47 of 1963.

Indemnity.

351. No suit shall be maintainable against any municipal authority or any officer or other employee of the Municipality or any person acting under the direction of any municipal authority or any officer or other employee of the Municipality or a Municipal Court in respect of anything done lawfully and in good faith and with due care and attention under this Act or the rules or the regulations made thereunder.

O. Powers and Duties of Police Officers

Co-operation of police. 352. (1) Every Police-Officer-in-charge of a police station within the jurisdiction of the Municipality and every officer, and every other employee, subordinate to him, if any (hereinafter referred to in this section as the designated authority), shall -

(a) co-operate with the Municipality for carrying into effect, and enforcing, the provisions of this Act and for maintaining good order in and outside the municipal area, and

(b) assist the Municipality or the Chief Municipal Officer or any other officer or other employee of the Municipality in carrying out any order made by a Municipal Court under this Act.

(2) It shall be the duty of every police officer -

(i) to communicate without delay to the Chief Municipal Officer or any other officer of the Municipality any information which he received in respect of any design to commit, or any commission of, any offence under this Act or the rules or the regulations made thereunder, and

(ii) to assist the Chief Municipal Officer or any other officer or other employee of the Municipality requiring his aid for the lawful exercise of any power vesting in the Municipality or the Chief Municipal Officer or such other officer or other employee under this Act or the rules or the regulations made thereunder.

(3) Any officer or other employee of the Municipality may, when empowered by a general or special order of the designated authority, if any, on the recommendation of the Municipality in that behalf, exercise the powers of a police officer for such of the purposes of this Act as may be specified in such general or special order.

(4) The District Magistrate, the Sub-Divisional Magistrate, and the officers under them and the other employees subordinate to them shall cooperate with the municipal authorities in the performance of their duties under this Act.

Power of police to arrest offenders. 353. (1) Any police officer may arrest any person who commits, in his view, any offence under this Act or the rules or the regulations made thereunder, provided such person declines to give, on demand, his name and address or gives a name or address which the police officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his correct name and address are ascertained or without the order of a Municipal Court for a period longer than twenty-four hours from the

time of arrest, exclusive of the period necessary for the journey from the place of arrest to the court of such Municipal Court.

(3) On an application, in writing, of the Chief Municipal Officer or any other officer authorized by him in this behalf, any police officer above the rank of a constable shall arrest any person who obstructs the Chief Municipal Officer or any other officer or other employee of the Municipality in the exercise of any power or performance of any function, or discharge of any duty, under this Act or the rules or the regulations made thereunder.

(4) On an application, in writing, of the Chief Municipal Officer or any other officer, not below the rank of an officer authorized in this behalf by the Chief Municipal Officer under sub-section (3), any police officer above the rank of a constable shall arrest any person who, in violation of the order referred to in section 282, commences the erection of a building, or execution of any work, referred to in that sub-section or carries on such erection or such execution.

P. General Provisions

Validity of notice and other document.

354. No notice, order, requisition, licence or permission, in writing, or any other document, issued under this Act, shall be invalid merely by reason of defect of Form.

Admissibility of document or entry as evidence.

355. A copy of any receipt, application, plan, notice, order, or other document or any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorized by the Chief Municipal Officer in this behalf, be admissible in evidence of the existence of such document or entry, and shall be admitted as evidence of the matters and transactions therein recorded, in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters and transactions.

Evidence of officer or employee of Municipality.

356. No officer or other employee of the Municipality shall, in any legal proceeding to which the Municipality is not a party, be required to produce any register or document, the contents of which can be proved under section 340 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein, save by an order made by a court having jurisdiction.

Prohibition against obstruction of Chief Councillor or any municipal authority etc.

357. No person shall obstruct or molest -

(a) any municipal authority, or the Chief Councillor, or the Deputy Chief Councillor, or a Councillor, or the Chief Municipal Officer, or any employee of the Municipality or any person employed by the Municipality, or

(b) any person, authorized or empowered by or under this Act or with whom the Municipality or any of the municipal authorities has lawfully entered into a contract, in the performance of its or his duty, or in the execution of its or his work, or anything which it or he is empowered or required to do by virtue, or in consequence, of any provision of this Act or the rules or the regulations made thereunder, or in the fulfilment of the contract, as the case may be.

Prohibition against removal of mark.

358. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorized by this Act or the rules or the regulations made thereunder

Prohibition against removal or obliteration of notice.

359. No person shall, without authority, remove, destroy, deface, or otherwise obliterate any notice exhibited by or under the orders of the Municipality, or any municipal authority, or any officer or other employee of the Municipality specified by the Chief Municipal Officer in this behalf.

Prohibition against unauthorized dealings with public place or materials.

360. No person shall, without authority in that behalf, remove earth, sand or other material from, or deposit any matter in, or make any encroachment on, any land vested in the Municipality, or in any way obstruct such land.

Liability for loss, waste or misapplication of money or property of Municipality.

361. (1) Every person shall be liable for the loss, waste, or misapplication of any money or other property, owned by, or vested in, the Municipality, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct in the performance of his duty under this Act, and he may, after being given an opportunity by a notice served in the manner provided for the service of summons in the Code of Civil Procedure, 1908, to show cause by a representation, in writing or oral, why he should not be required to make good the loss, by order, be surcharged with the value of such property or the amount of such money by the Commissioner-cum-Secretary, Urban Development and Housing Department, of the State Government and if the amount is not paid within one month of the expiry of the period of appeal specified in sub-section (2), it shall be recoverable as an arrear of tax leviable under this Act.

5 of 1908

(2) The person, against whom an order under sub-section (1) is made, may, within thirty days of the date of communication of the order, appeal to the State Government, and the State Government may confirm, modify or disallow the surcharge:

Provided that no person shall, under this section, be called upon to show cause after the expiry of a period of four years, or, in the case of a Councillor, after a period of one year, from the occurrence of such loss or waste or misapplication.

Councillors and officers and other employees of Municipality to be public servants.

362. Every Councillor, the Chief Municipal Officer, and every other officer or other employee of the Municipality shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Other laws not to be disregarded.

363. Save as otherwise expressly provided in this Act, nothing contained in this Act shall be construed to authorize the Municipality or any municipal authority or any officer or other employee of the Municipality to disregard any law for the time being in force.

Chapter XXXVII

Rules and Regulations

Power to make rules.

364. (1) The State Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Any rule made under this Act may provide that any contravention thereof shall be punishable with fine which may extend to five thousand rupees.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rules or the State Legislature agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to amend Schedule.

365. The State Government may, by notification, add to, amend or alter the Schedule to this Act.

Power to make regulations.

366. The Municipality may, from time to time, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder for the purpose of giving effect to the provisions of this Act.

Conditions precedent to making of regulations.

367. The power to make regulations under section 366 is subject to the condition of the regulations being made after previous publication and to the following further conditions, namely :-

(a) such draft of regulations shall not be further proceeded with until a period of one month has expired from the date of such publication,

(b) for not less than one month during such period, a printed copy of such draft shall be kept in the office of the Municipality for public inspection, and any person shall be permitted at any reasonable time to peruse such draft, free of charge, and

(c) printed copies of such draft shall be obtainable by any person requiring such draft on payment of such fee as may be fixed by the Executive Authority.

Regulations to be subject to approval of State Government.

368. (1) No regulation made by the Municipality under this Act shall have any effect until it has been approved by the State Government and published in the *Official Gazette.*

(2) Before approving any regulations, the State Government may make such changes therein as may appear to it to be necessary.

Power of State Government to cancel or modify regulations

369. (1) If the State Government is, at any time, of opinion that any regulation should be cancelled or modified, either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Municipality, and shall specify a reasonable period within which the Municipality may make such representation with regard thereto as it may think fit.

(2) After receipt and consideration of any such representation or if, in the meantime, no such representation is received, after the expiry of the period as aforesaid, the State Government may, at any time, by notification, cancel or modify such regulation either wholly or in part.

(3) The cancellation or modification of any regulation under sub- section (2) shall take effect from such date as the State Government may specify in the notification under that sub-section or, if no such date is specified, from the date of publication of such notification:

Provided that such cancellation or modification shall not affect anything done or suffered or omitted to be done under such regulation before such date.

(4) Any notification under sub-section (2) shall also be published in local newspapers.

Supplemental provisions respecting regulations.

370. Any regulation, which may be made by the Municipality under this Act, may be made by the State Government within one year from the date of commencement of this Act, and any regulation so made may be altered or rescinded by the Municipality with the approval of the State Government.

Penalty for breach of regulation.

371. (1) Any regulation made under this Act may provide that a contravention thereof shall be punishable -

(a) with fine which may extend to two thousand and five hundred rupees, or

(b) with fine which may extend to two thousand and five hundred rupees and, in the case of a continuing contravention, with an additional fine which may extend to two hundred and fifty rupees

for every day during which such contravention continues after conviction for the first of such contravention, or

(c) with fine which may extend to two hundred and fifty rupees for every day during which the contravention continues, after the receipt by the person contravening the regulation, of a notice from the Chief Municipal Officer or any other officer of the Municipality, duly authorized in that behalf, requiring such person to discontinue such contravention.

(2) Any such regulation may also provide that a person contravening the regulation shall be required to remedy, so far as lies in his power, the mischief, if any, caused by such contravention.

Rules and regulations to be available for inspection and purchase.

372. (1) A copy of all rules and regulations made under this Act shall be kept at the office of the Municipality and shall, during office hours, be open, free of charge, to inspection by any inhabitant of the municipal area.

(2) Copies of such rules and regulations shall also be kept at the office of the Municipality and shall be sold to the public at such price as the Executive Authority may determine.

Doubts as to powers, duties or functions of municipal authorities.

373. If any doubt arises as to the municipal authority to which any particular power, duty or function appertains, the Chief Councillor shall refer the matter to the State Government, and the decision of the State Government thereon shall be final.

Chapter XXXVIII

Offences and Penalties

Punishment for certain offences.

374. Whoever-

(a) contravenes any provision of any of the sections, sub- sections, clauses, provisos or any other provision of this Act, or

(b) fails to comply with any order lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisos or other provisions,

shall be punishable -

(i) with fine which may extend to such amount, or with imprisonment which may extend to such period, as the State Government may, by rules, provide, and

(ii) in the case of a continuing contravention or failure, with an additional fine which may extend to such amount as the State Government

may, by rules, provide for every day during which such contravention or failure continues after conviction for the first such contravention or failure:

Provided that in the case of a Municipal Councilor a Nagar Panchayat, the amount to which the fine may extend for various offences, shall be such as the State Government may, by rules, provide, and, in the case of a continuing contravention or failure, the daily additional fine may extend to one tenth of the maximum amount of fine, provided for such class of municipalities in such rules.

Punishment for acquiring share or interest etc. with Municipality.

375. Any Councillor who knowingly acquires, directly or indirectly, any share or interest in any contract made with, or any work done for, the Municipality except as a shareholder (other than a Director) in an incorporated company or as a member of a co-operative society shall be deemed to have committed the offence punishable under section 168 of the Indian Penal Code.

45 0f 1860.

Fine for not paying tax under chapter XVI.

376. If any person erects, exhibits, fixes or retains any advertisement referred to in chapter XVI, without paying any tax under that chapter, he shall be punished with fine which -

(a) may extend to an amount equal to five times the amount payable as such tax, and

(b) shall not ordinarily be less than an amount equal to two times the amount payable as such tax.

Fine for putting building to any use other than that for which a licence has been granted.

377. When any premises is used or is permitted to be used by any person for any purpose other than that for which a licence has been granted under sub-section (1) of section 288 or as a stable or cattle-shed or cow-house, then such person shall, without prejudice to any other penalty to which he may be subject, be liable to a fine which may extend, in the case of a masonry building, to two hundred and fifty rupees and, in the case of a hut, to twenty-five rupees, and, in the case of continuance of such use, to a further fine which may extend, in the case of a masonry building, to fifty rupees and, in the case of a hut, to five rupees for each day during which such use continues after the first day.

Penalty for obstructing contractor.

378. Whoever obstructs or molests any person with whom the Municipality has entered into a contract for execution of any work under this Act shall, on conviction, be punished with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees

Penalty for causing damage to property belonging to Municipality.

379. No person shall cause any damage to any property belonging to the Municipality. Any person causing any damage to any property belonging to the Municipality shall, on conviction, be punished with fine which may extend to one thousand rupees.

Encroachment on streets.

380. No person shall cause any encroachment or obstruction on any municipal property such as a street or footpath or park without specific permission of an officer of the Municipality duly authorized to grant such permission. Any person causing such encroachment or obstruction on any municipal property as aforesaid shall, on conviction, be punishable with fine which may extend to one thousand rupees.

Punishment of imprisonment in default of payment of fine.

381. In every case where, under this Act, an offence is punishable with fine or with imprisonment or with both, and a person is sentenced by a Court having jurisdiction to pay a fine, it shall be competent for such Court to direct that in default of payment of such fine, he shall suffer imprisonment for such term or, as the case may be, such further term, not exceeding six months, as the Court may fix.

General penalty.

382. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice or order or requisition issued under any provisions thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to one hundred rupees for every day after the first during which he has persisted in such failure or contravention.

Offences by companies.

383. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (I), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. -For the purposes of this section, -

(a) "company" means a body corporate, and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

Prosecution.

384. Save as otherwise provided in this Act, no Court shall proceed to the trial of any offence punishable by or under this Act except on the complaint of, or upon information received from, the Chief Municipal Officer or any person authorized by him by general or special order in this behalf.

Compounding of offences.

385 (1) The Chief Municipal Officer or, if so authorized by the Municipality in this behalf by a general or special order, the Municipal Health Officer, the Municipal Engineer or any other officer of the Municipality may, either before or after the institution of the proceeding and on payment of such fee as may be specified by regulations, compound any offence as may be classified as compoundable by the State Government by rules.

(2) Notwithstanding anything contained in sub-section (1), no offence punishable by or under this Act or by any rule or regulation made thereunder shall be compoundable if such offence is committed due to the failure to comply with any notice, order or requisition, as the case may be, issued by or on behalf of any of the municipal authorities referred to in section 20, unless and until such notice, order or requisition, as the case may be, has been complied with in so far as such compliance is possible.

(3) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of the offence so compounded.

Chapter XXXIX

Supplemental Provisions

A. Extension of Act to Other Areas and Inclusion or Exclusion of Areas within or from the Municipal Area

Power of State Government to notify intention to extend Act to other areas.

386. Notwithstanding anything contained in any other law for the time being in force, the State Government may, by notification and in such other manner as it may determine, declare its intention to extend, subject to such modifications and restrictions, if any, as may be specified in the notification, all or any of the provisions of this Act to any other area.

B. Miscellaneous and Transitory Provisions

Provisions of the chapter to override other provisions.

387. The provisions of this chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act.

Removal of difficulties.

388. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do, or cause to be done anything which may be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of this Act.

Repeal.

389. With effect from the date of coming into force of this Act, the Sikkim Municipalities Act, 1995, shall stand repealed. Act No.6 of 1995

Transitory provision.

390. (1) Notwithstanding anything to the contrary contained elsewhere in this Act, the State Government may appoint a person to be called the Administrator to exercise all the powers, and discharge all the functions, of the municipal authorities mentioned in section 20 for the period from the date of coming into force of this Act till the first meeting of the Municipality at which a quorum is present.

(2) The Administrator appointed under sub-section (1) may constitute such Committees, and for such period, as he may deem fit.

(3) Each such Committee shall consist of not more than twenty-five persons, appointed on such terms and conditions as the Administrator may deem fit, and shall advise the Administrator in the discharge of his functions under this Act.

By Order.

R.K. Purkayastha (SSJS)
LR-cum-Secretary
Law Department

File No. 16(82)/LD/2007

S.G.P.G. 193/ Gazetted/ 250 cps/ 26.05.07

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Saturday 29th September, 2007 No.441

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No.15/LD/2007 Dated: 28/09/2007

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 13 th day of September, 2007 is hereby published for general information:-

THE SIKKIM MUNICIPALITIES (FIRST AMENDMENT)ACT, 2007
(ACT NO. 15 OF 2007)
AN
ACT

to amend the sikkim Municipalities Act, 2007.

Be it enacted by the Legislature of Sikkim in the Fifty- eight Year of the Republic of India as follows:-

Short title and commencement 1. (1) This Act may be called the Sikkim Municipilities (First Amendment) Act, 2007
(2) It shall come into force at once.

Amendment of Section 8. 2. In th e Sikkim Municipalities Act, 2007 (hereinafter referred to as the said Act),in clause (a) of Section 8, for the word "eleven" the word "fiften" shall be substituted.

Amendment of Section 13. 3. In the said Act, in Section 13, in the existing table, against **Municipal Corporation**, under the heading "Maximun Number", for the figure "11" the figure "15" shall be subsituted.

Amendment of Section 14. 4. In the said Act, in Section 14, after the ward "direction" and before the words and "control" the words " delimitation, reservation" shall be inserted.

Amendment of Section 364. 5. In the said Act, in sub- section (1) of Section 364, the words " and subject to condition of previous publication" shall be omitted.

By Order.

R. K. Purkayastha SSJS,
Secretary- cum-Legal Remembrancer,
Law & Parliamentary Affairs Department.
File No.16 (42) LD/ 2007

S.G.P.G.-441/com.9/ Gaz. 252-259/ 150 cps./ 29.09.2007

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 8th July, 2008 | No. 259

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No: 13/LD/P/2008 **Date: 07.07.2008**

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 28th day of June, 2008 is hereby published for general information:

THE SIKKIM MUNICIPALITIES (SECOND AMENDMENT) ACT, 2008

(Act No. 13 of 2008)

AN

ACT

further to amend the Sikkim Municipalities Act, 2007.

Be it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows:

Short title and Commencement

1. (1) This Act may be called the Sikkim Municipalities (Second Amendment) Act, 2008.

(2) It shall come into force at once.

Amendment of Section 15

2. In the Sikkim Municipalities Act, 2007, (hereinafter referred to as the said Act), in sub-sections (2) and (3) of Section 15, for the words "one third" wherever they occur, the words "forty percent" shall be substituted.

Substitution of Section 18

3. In the said Act, for the existing Section 18, the following shall be substituted, namely:

"18. Disqualification of members of Municipalities.

A person shall be disqualified for being chosen as and for being, a member of Municipality.

(a) If he is so disqualified by or under any law for the time being in force for the purpose of elections to the Legislative Assembly of Sikkim :

Provided that no person shall be disqualified on the ground that he is less than twenty five years of age, if he has attained the age of twenty one years ; or

(b) if he is a member of a Gram Panchayat or Zilla Panchayat established under the law relating to constitution of such Gram Panchayat or Zilla Panchayat for the time being in force; or

(c) if he holds any office of profit under a local authority or a Co-operative Society or a Government Company or a Corporation owned or controlled by the Central or the State Government ; or

(d) if he has been dismissed from the service of a State Government or the Central Government or a local authority or a Co-operative Society or a Government Company or a Corporation owned or controlled by the Central or the State Government for misconduct ; or

(e) if he is of unsound mind and stand so declared by a competent court; or

(f) if he is an un-discharged insolvent; or

(g) if he is suffering from a variety of leprosy which is infectious; or

(h) if he is convicted of an election offence ;or

(i) if he has been convicted by a Court of an offence involving moral turpitude and sentenced to imprisonment for a term exceeding six months ; or

(j) if he has not paid any arrear in respect of any tax or rate or fee payable to a Municipal Corporation or Gram Panchayat or Zilla Panchayat or a Municipal Council or a Nagar Panchayat or the State Government:

Provided that the disqualification under this clause shall cease upon payment of the rate or tax or fee; or

(k) if he has directly or indirectly by himself or by his partner or employer or an employee hold any share or interest in any contract with, by or on behalf of a Municipal Corporation or Gram Panchayat or Zilla Panchayat or a Municipal Council or a Nagar Panchayat of the district:

Provided that a person shall not be deemed to have incurred disqualification by reason of his having a share or interest in any public company or registered co-operative society which has contract with or is employed by a Municipal Corporation or Gram Panchayat or Zilla Panchayat or a Municipal Council or a Nagar Panchayat of the district".

By Order.

R.K.PURKAYASTHA (SSJS)
L R-cam-Secretary
Law Department

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 11th June, 2013 | No. 282

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 8/LD/P/13 Dated: 06/06/2013

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 18th day of May, 2013 is hereby published for general information :-

THE SIKKIM MUNICIPALITIES (AMENDMENT) ACT, 2013

(ACT NO. 8 OF 2013)

AN

ACT

further to amend the Sikkim Municipalities Act, 2007.

Be it enacted by the Legislature of Sikkim in the Sixty-fourth Year of the Republic of India as follows:-

Short title and commencement. 1. (1) This Act may be called the Sikkim Municipalities (Amendment)Act, 2013.

(2) It shall come into force on the date of its publication in the Official Gazette

Substitution of marginal heading of section 18 2. In the Sikkim Municipalities Act, 2007, hereinafter referred to as the said Act, for the marginal heading of section 18, the following shall be substituted, namely:-

"18. Disqualification and Removal of Members of Municipalities."

Insertion of new section 18 A 3. In the said Act, after section 18 the following new section shall be inserted namely:-

"18 A Removal of a Member of Municipality

(1) The Executive Authority may, after giving an opportunity to a member of the Municipality to show cause against the action proposed to be taken against him, by order remove him from office if;

(a) after his/her election he/she is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than 6 (six) months; or

(b) he/she is disqualified to be a member of the Municipality at the time of his election;

(c) he/she incurs any disqualification mentioned in section 18, after his election as a member of the Municipality: or

(d) he/she is absent from three consecutive meetings of the Municipality without the leave of Municipality.

(2) Any member of the Municipality who is removed from his/her office by the Executive Authority under sub-section (1), may, within a period of 30 (thirty) days time from the date of order, appeal to the Secretary to the Government of Sikkim in the Urban Development and Housing Department, who may stay the operation of the order till the disposal of the Appeal and may after giving notice for the Appeal to the Executive Authority and after giving the Appellant an opportunity of being heard, modify, set aside or confirm the order.

(3) The order passed by such authority on such appeal shall be final.

(4) Any member of the Municipality being a member of any political party, if he/she ceases to be the member of that political party shall cease to be the member of the Municipality from the same day he / she ceases to be the member of that political party."

R. K. Purkayastha,
Advisor-cum-Principal Secretary,
Law & Parliamentary Affairs Department
Gangtok

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Wednesday 25th March, 2015 | No. 112

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 2/LD/P/15 Dated: 25/03/2015

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 21st day of March, 2015 is hereby published for general information:-

THE SIKKIM MUNICIPALITIES (AMENDMENT) ACT, 2015
ACT NO. 2 OF 2015
AN
ACT

further to amend the Sikkim Municipalities Act, 2007

Be it enacted by the Legislature of Sikkim on the Sixty-sixth Year of the Republic of India as follows:-

Short title, extent and Commencement.

1. (1) This Act may be called the Sikkim Municipalities (Amendment) Act, 2015.

(2) It shall come into force at once.

Amendment of Section 8.

2. In the Sikkim Municipalities Act, 2007 (hereinafter referred to as the said Act), In Clause (a) of section 8, for the word "fifteen" the word "seventeen" shall be substituted.

Amendment of Section13.

3. In the said Act, in section 13, in the existing Table, against Municipal Corporation, under the heading "Maximum Number", for the figure "15" the figure "17" shall be substituted.

(Lakchung Sherpa) SSJS
L.R.-cum-Secretary,
Law Department.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 11th August, 2015 | No. 297

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 3/LD/15 Dated: 11/08/2015

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 6th day of August, 2015 is hereby published for general information :-

THE SIKKIM MUNICIPALITIES (AMENDMENT) ACT, 2015
ACT NO 03 OF 2015
AN
ACT

further to amend the Sikkim Municipalities Act, 2007

Be it enacted by the Legislature of Sikkim on the Sixty-sixth Year of the Republic of India as follows:-

Short title, extent and commencement **1.** (1) This Act may be called the Sikkim Municipalities (Amendment) Act, 2015.

(2) It shall come into force at once.

Amendment of section 15 **2.** In the Sikkim Municipalities Act, 2007, in section 15,

(1) for the words "backward class of citizens and the most backward class of citizens" wherever they occur, the words "Other Backward Classes as indicated in the State List and Other Backward Classes as indicated in the Central list" shall be respectively substituted;

(2) in sub section (2) and (3) of section 15, for the words "forty percent" wherever they occur, the words "fifty percent" shall be substituted.

Lakchung Sherpa, SSJS
L.R.-cum-Secretary,
Law Department.

S.G.P.G. - 297/ Comp.7/ Gazette / 30 Nos./ Dt:- 11.08.2015.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Wednesday 25th November, 2015 | No. 442

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 8/LD/15 Dated: 25.11.2015

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 20th day of September, 2015 is hereby published for general information:-

THE SIKKIM MUNICIPALITIES (AMENDMENT) ACT, 2015
(ACT NO. 8 OF 2015)

AN

ACT

further to amend the Sikkim Municipalities Act, 2007.

Be it enacted by the Legislature of Sikkim on the Sixty-sixth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Municipalities (Amendment) Act, 2015.

(2) It shall come into force at once.

Insertion of new section 15 A

2. In the Sikkim Municipalities Act, 2007, (herein after referred to as the said Act), after sub-section (4) of section 15 the following the new section shall be inserted, namely:-

"15A Nominated Councillors: - The State Government may nominate Councillors from amongst those Communities who have not been adequately represented in the Municipalities."

Amendment of section 27

3. (i) In the said Act, in section 27, after sub-section (1) and the entries relating thereto, the following section shall be inserted namely :-

"(2) The Executive body of the Municipal Corporation may elect a Chairman from amongst the Executive Members to head the Subject Committee so constituted under sub-section (1)";

(ii) the existing sub-section (2) and the entries related thereto shall be renumbered as sub-section(3) of that section.

Lakchunng Sherpa,(SSJS)
L.R.-cum-Secretary,
Law Department.

S.G.P.G. - 442/ Com.6/Gazette/ 30 Cps./25.11.2015

THE SUBSEQUENT AMENDMENTS TO THE GANGTOK MUNICIPALITIES ACT, 2007 (ACT NO. 5 OF 2007) AMENDED AND UPDATED UPTO NOVEMBER, 2015

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Thursday 08th October, 2020 | No. 234

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 16/LD/2020 Dated: 07.10.2020

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 21st day of September, 2020 is hereby published for general information :-

THE SIKKIM MUNICIPALITIES (AMENDMENT) ACT, 2020
(ACT NO. 16 OF 2020)

AN

ACT

further to amend the Sikkim Municipalities Act, 2007 (Act No. 5 of 2007).

Be it enacted by the Legislature of Sikkim in the Seventy-first Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Sikkim Municipalities (Amendment) Act, 2020.

(2) It shall come into force on the date of its publication in the Official Gazette.

Insertion of new proviso to sub section (3) of section 12.

2. In the Sikkim Municipalities Act, 2007 (hereinafter referred to as the "said Act"), in sub-section (3) of section 12, after the first proviso, the following proviso shall be inserted namely :-

"Provided further that in case of certain unprecedented exigencies, the State Government for the reason to be specified, may, by notification to be published in the Official Gazette, defer the Municipality election for a period not exceeding six months in one spell beyond the period stipulated under sub-section (2). However, in no case the election shall be deferred by more than a year beyond the stipulated date."

Insertion of new section 14A.

3. In the said Act, after section 14, the following new section shall be inserted namely :-

"14 A. No person shall contest the election to any municipality with the support, direct or indirect of any political party."

Omission of section 15A.

4. In the said Act, section 15A shall be omitted.

Jagat B. Rai (SSJS)
L.R-cum-Secretary
Law Department

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 30th March, 2021 | No. 81

GOVERNMENT OF SIKKIM
LAW & P.A. DEPARTMENT
GANGTOK

No. 07/L&PAD/2021 Dated: 30.03.2021

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 30th day of March, 2021 is hereby published for general information :-

THE SIKKIM MUNICIPALITES (AMENDMENT) ACT, 2021
(ACT NO. 07 OF 2021)

AN

ACT

further to amend the Sikkim Municipalities Act, 2007 (Act No. 5 of 2007).

Be it enacted by the Legislature of Sikkim in the Seventy-second Year of the Republic of India as follows :-

Short title and commencement

1. (1) This Act may be called the Sikkim Municipalities (Amendment) Act, 2021.

(2) It shall be deemed to have come into force on the 22nd day of February, 2021.

Amendment of section 8

2. In the Sikkim Municipalities Act, 2007 (hereinafter referred to as the "said Act"), in clause (a) of section 8, for the word "seventeen", the word "nineteen" shall be substituted.

Amendment of section 13

3. In the said Act, in section 13, in the existing Table, against Municipal Corporation, under the column "Maximum Number", for the figure "17", the figure "19" shall be substituted.

Repeal and saving

4. (1) The Sikkim Municipalities (Amendment) Ordinance, 2020 (04 of 2020) shall be deemed to have repealed on the date of commencement of this Act.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken in exercise of the power conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.

Suraj Chettri (SSJS)
L.R-cum-Secretary
Law & P.A. Department